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**THIS REPORT, JUST RECEIVED FROM THE STATE  
PRINTER, IS NOW UNDER CONSIDERATION BY THE  
LEGISLATURE.**

July 28, 1941.

F. W. G., Editor.

MASSACHUSETTS  
JULY 1911  
THE REPORT OF THE  
COMMISSIONER OF THE  
DEPARTMENT OF  
CORRECTIONS  
FOR THE YEAR  
1910

# Massachusetts Law Quarterly

JULY 1911

THIS REPORT WAS PREPARED UNDER THE  
AUTHORITY OF THE BOARD OF PRISON  
COMMISSIONERS OF THE  
COMMONWEALTH OF MASSACHUSETTS

W. B. BROWN

1911

# HOUSE . . . . No. 2770

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## **The Commonwealth of Massachusetts**

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### REPORT OF THE JOINT SPECIAL COMMITTEE CONSISTING OF THE MEMBERS OF THE COMMITTEE ON THE JUDICIARY CON- CERNING THE DISTRICT COURT SYSTEM OF THE COMMONWEALTH.

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BOSTON, July 15, 1941.

*To the Honorable Senate and House of Representatives.*

The Committee was created by the following House Order numbered 2303, adopted in concurrence on Monday, April 21, 1941:

*Ordered,* That a joint special committee, consisting of the members of the committee on the Judiciary, is hereby established for the purpose of making an investigation and study of the district court system of the Commonwealth, with a view to recommending such changes in said system as it may deem necessary or desirable. In making its investigation and study hereunder, said committee shall consider so much of the 16th report of the Judicial Council (Pub. Doc. No. 144) as relates to the subject matter of this resolve; so much of the Governor's Address (Senate, No. 1) as relates to a State-wide extension of the juvenile courts (page 20); the subject matter of current Senate documents numbered twenty-eight, twenty-nine, two hundred and sixteen, two hundred and twenty-three, two hundred and twenty-four, two hundred and twenty-five, four hundred, four hundred and two, four hundred and four, four hundred and six and four hundred and ten and current House documents numbered seven hundred and sixty-five, seven hundred and sixty-eight, seven hundred and sixty-nine, seven hundred and seventy-one, seven hundred and eighty-two, ten hundred and ninety-four, eleven hundred and eighteen, fourteen hundred and two, fourteen hundred and three, fourteen hundred and four, fourteen hundred and five, fourteen hundred and six, fourteen hundred and seven, nineteen hundred and ten and twenty hundred and eleven. Said committee may expend for

clerical and other necessary expenses the sum of fifteen hundred dollars, and shall report to the General Court on or before the first Monday of June in the current year the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry said recommendations into effect.

The Committee has held meetings from time to time and has considered all of the documents enumerated in the foregoing order. Moreover, it has had the advantage of the reports of prior commissions and committees which have dealt with the subject of district courts. Information and suggestions from the justices and special justices of the district courts have been solicited through the medium of a questionnaire, and a public hearing was had for a discussion of the district court system in general.

As a setting for the conclusions and recommendations adopted by the Committee in this report a brief statement concerning the problems confronting it is in order.

Whatever may have been the intention and purpose of the Legislature in creating the several district courts in the Commonwealth, which now number seventy-two, it is apparent that with few exceptions they have grown to be morning courts; that is to say, rarely does a court find it necessary to sit during the afternoon, and it has been stated by justices themselves that they attempt to avoid afternoon sessions in so far as possible by calling in enough special justices on any given day so that the business at hand may be disposed of with dispatch. This trend has in recent years resulted in legislative provision for more and more special justices to make possible that result, so that we now find provision for a total of one hundred and fifty-seven special justices in the entire system.

The natural result of such a situation is to give the standing justices considerable free time in which to maintain a law practice to augment their income, and to spread the work of the courts so thinly among the special justices that of necessity they must maintain a law practice. Their work as special justices is not only uncertain, but usually inadequately compensated.

Many of the alleged abuses by justices and special justices stem from the fact that they perform a dual rôle of judge and lawyer under such a system; for example, it has been stated that it is improper for a man who is one day an adversary in litigation to sit next day to hear cases being tried by yesterday's opponent. Such practice makes possible abuse of the judicial office, and tends to undermine public confidence in the courts.

A further objection has been found in the fact that a judge's law practice may compete for his time with his judicial duties. That situation in fairness should be recognized as unfortunate, also, for the judge whose judicial duties deprive him of the opportunity effectively to maintain his law practice. However, a growing tendency on the part of a standing justice has been detected to favor his law practice by resorting to the statutory provision for simultaneous sessions to the point of abuse. He may frequently call upon special justices to preside over simultaneous sessions in order that the business of the day will not occupy too much of his time and he can leave for his office or other activity.

Other faults have been found, but perhaps the most important one which needs to be mentioned is the fact that there is a lack of central control over the several district courts. This is said to result in unpredictable practice and procedure, lack of standardized forms, and even capricious and dictatorial behavior on the part of the justices.

It seems to the Committee that the logical cure for the foregoing defects and abuses lies in the ultimate reorganization of the system, to the end of bringing about full-time service on the part of justices, with a provision for adequate compensation, prohibited practice of law and centralized control. But difficulty is encountered when ways and means are suggested to bring about such a change. From time to time plans have been suggested calculated to accomplish the desired result in varying degrees.

Whereas a plan might readily be worked out if the problem were one relating to a new community, it is obvious that the political problem is acute where any

radical change must necessarily result in hardship to many persons, both justices, special justices, and other officers attached to the courts which have grown up over a period of many years.

Just as obvious is the practical obstacle of unjustified expense in creating full-time courts throughout the Commonwealth with full-time compensation where there is insufficient business to occupy full-time service. On the other hand, a majority of the Committee does not believe that a complete uprooting of the system by its abolition, and the creation of a new plan of district courts, is expedient or practicable. There are too many uncertain elements involved in such a drastic change to make it attractive, even if it could be accomplished. The Committee feels that it is preferable to adopt a far-sighted view and to take preliminary steps at this time to lay a proper foundation for ultimate reorganization which will possess the desired advantages summarized above.

It is asserted that there are certain important and valuable features of the present system which ought to be retained. Chief among these is that on the criminal side of the court there is now readily available speedy and convenient justice in the daily criminal sessions. The courts presently are so located that, for the most part, geographic convenience is apparent.

A majority of the Committee feels, however, that in some cases this has gone beyond a reasonable degree, and that there is no real basis for maintaining district courts within only five or six miles of each other when none of such courts has enough business to occupy the full time of one judge. Such a duplication of court facilities becomes the more lamentable when it may readily be demonstrated that such a condition stands in the way of remedial legislation to the end of effecting a reform.

It is with this in mind that the Committee recommends the appended measures with respect to the abolition outright of three courts, the justices of two of which have died and the justice of the third is about to retire, and the abolition of ten more courts upon the occurrence of a vacancy in the office of justice.

Concerning the suggestion from time to time made in varying forms that justices and special justices should be taken out of the practice of law, the Committee is of opinion that the only fair step that may be taken is presently to cut down the number of justices and special justices as provided for in the appended legislation, to the end that at some time in the not too distant future the judicial personnel of the district courts will be small enough to permit the working out of an efficient and more ideal system.

The remaining measure of particular importance concerns the enlargement of the administrative committee and the vesting in it of broad powers calculated to bring about centralized control and a unified system. The powers and duties conferred upon the administrative committee would assist in correcting possible abuse of the judicial office. The Committee believes that such a measure is essential as a foundation for ultimate reform, and that it is an important first step toward reorganization.

Respectfully submitted,

JOHN D. MACKAY,  
*Senate Chairman.*

ARTHUR I. BURGESS,  
*House Chairman.*

JOSEPH F. FRANCIS.  
ARTHUR W. COOLIDGE.  
RICHARD S. BOWERS.  
WILLIAM P. GRANT.  
CHARLES J. INNES.  
PHILIP BARNET.  
OTIS M. WHITNEY.  
ROYAL B. PATRIQUIN.  
BENJAMIN B. PRIEST.  
RALPH V. CLAMPIT.  
DANIEL L. O'DONNELL.  
THOMAS F. COYNE.  
LAWRENCE P. McHUGH.  
JAMES L. VALLELY.  
JEREMIAH J. SULLIVAN.

### SUPPLEMENTARY STATEMENT.

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We, the undersigned, although concurring in the report of the majority, wish to express our opinion that the measures recommended by the Committee do not go far enough in curbing the abuses complained of in the district court system.

We believe that the most serious abuses complained of are —

1. The practice of law by district court judges seriously restricts the time they can devote to their judicial work; and as to some judges, gives rise to interests which conflict with the performance of their judicial duties.

2. Most of the district court standing justices, who are fairly well paid for part-time work, sit only during the brief criminal sessions of their courts, calling in special justices for civil sittings — at increased expense to the counties.

3. Special justices of the district courts commonly sit only a portion of a day, for which they receive a full day's compensation, and postpone unfinished cases to other days — to the great expense and inconvenience of the counsel and litigants.

We believe that the remedy for the aforementioned abuses is as follows:

1. All district court judges should be required to devote their full time to their positions, giving up the practice of law. For this sacrifice they should be compensated by an adequate increase in salary.

2. Judicial districts which are not large enough to require the full time of a judge should be enlarged by adding adjoining districts, the judges holding court at the several courthouses within the enlarged district on days that will serve the convenience of the litigants.

Respectfully submitted,

JOHN D. MACKAY.  
RICHARD S. BOWERS.  
RALPH V. CLAMPIT.  
ARTHUR I. BURGESS.  
BENJAMIN B. PRIEST.



STATEMENT OF REPRESENTATIVE  
CHARLES J. INNES.

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I dissent from the majority report of the Committee in so far as it would give power to the administrative committee to assign presiding justices to sit in other courts than their own. Not only the justices but the people in the communities involved will object most strenuously to this proposal, and properly so. There is a unanimity of feeling that the local presiding justice in each district court has a responsibility in the handling of his court, and a knowledge of local people and conditions, which is essential to the proper disposition of the criminal offences heard by him.

I agree with the Committee's recommendations that the administrative committee ought to have the power to assign special justices, but because there has been no limitation recommended on the private law practice of these special justices, coupled, as such a recommendation should be, with a provision for adequate compensation to them in return for these justices giving up their law practice, I therefore feel that the remedy for the evils of our antiquated district court system has not been found by the majority. Approximately twelve special justices working full time for an annual salary would be able to hear all the motor tort trials in the district courts of the Commonwealth, except those in the municipal court of the city of Boston. These full-time justices could be designated by the Governor to serve for a term of years from among the present special justices, and they would be assigned for duty by the administrative committee. Such a group of full-time judges would eliminate the evils complained of in the present system, create greater confidence in the lower courts in the mind of the public, and result in more trials in the lower courts, thus reliev-

ing the Superior Court of congestion and the taxpayers of the expense involved in Superior Court trials.

The proposal of the majority to limit the number of special justices is good provided it does not eventually result in the group of specials remaining being composed largely of aged men. I recommend therefore, an amendment to our Constitution providing for the compulsory retirement of justices and special justices of our district courts when reaching the age of seventy, and that it be made retroactive if it is possible constitutionally to do so.

CHARLES J. INNES.

SUPPLEMENTAL STATEMENT BY  
PHILIP BARNET.

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While I have signed the majority report of the Committee and appear to favor the proposals embodied in the various appendices to this report, I feel that the Committee could well have gone forward and completed the task which it has merely begun. I feel that the time is ripe for a thoroughgoing reorganization of the district court system; that there will never be a time when political and other considerations will make it less difficult to effect such a reorganization; and that by its unwillingness to complete the task the majority of the Committee is merely postponing the day when this will have to be done. The district court problem has been discussed for two decades at least. Several special commissions have made studies and have filed lengthy and detailed reports. The Judicial Council has at various times made recommendations. I feel that the Committee should tackle the problem fearlessly or admit its failure.

PHILIP BARNET.

STATEMENT OF LAWRENCE P. McHUGH AND  
THOMAS F. COYNE.

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We dissent from those portions of the report of the Joint Special Committee of the Committee on Judiciary relating to the abolition of certain district courts upon the occurrence of a vacancy in the office of the justice, and wherein it establishes an administrative committee of the district courts.

It is our contention that the district court system was set up primarily for the convenience of the public. At the present time those courts sought to be abolished upon the occurrence of a vacancy in the office of the justices are geographically located to serve this purpose. In the various towns in which these courts are located, the justices of these courts are familiar with the people whom they serve and also the location of the various sections. It seems to us that a local justice may dispense justice to those who appear before him more equitably when he is so familiar with all of the facts and background of these people.

In regard to the administrative committee we do not believe that many changes will be effected by the appointment of a new administrative committee. This administrative committee being appointed by the Chief Justice of the Supreme Court may very easily become a dictatorial board. Under the terms of this proposal they have a right to take a justice from the Roxbury district court and send him out to Pittsfield. It is apparent that a judge of the Roxbury district court could not with the same sense of fairness deal out justice in Pittsfield when he is not familiar with the person who appears before him. In the County of Suffolk there is a sufficient business for the set-up of full-time courts located in the city of Chelsea, the East Boston district, the South Boston

district, Dorchester district, West Roxbury district and Brighton. These courts should be set up on a full-time basis. The justices of these courts should receive a salary of \$9,000 per annum. The special justices attached to these courts should be employed on a full-time basis and designated as associate justices in the courts to which they are now attached.

In our opinion they should receive a salary of \$7,500 a year. Within the County of Suffolk an administrative committee could be appointed to consist of three justices of the courts, one to be appointed by the Chief Justice of the Supreme Judicial Court, one by the Chief Justice of the Superior Court, and one to be appointed by the mayor of the city of Boston. This administrative committee would have the power of assignment of the special justices, and under this authority might assign a special justice from the Dorchester district court to the Roxbury district court. By setting up this full-time system in Suffolk County it would eliminate many complaints that have been made against various justices because of the fact that they practice law. Under our present set-up it is necessary for a judge in the district court or a special justice to practice law in order to live. We believe that many of these alleged abuses have been brought about by the erroneous impression on the part of many who believe that justices should not practice law in competition with other lawyers.

To our minds the only way this practice as it exists today may be eliminated is to appoint these men to full-time jobs with adequate compensation.

LAWRENCE P. McHUGH.  
THOMAS F. COYNE.

STATEMENT BY REPRESENTATIVE JAMES L.  
VALLELY.

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I find it necessary, after careful consideration of the majority report submitted by the Joint Special Committee of the Committee on the Judiciary, to dissent from certain findings of the majority, to wit:

1. An Act relative to the abolition of certain district courts upon occurrence of a vacancy in the office of the justice.
2. An Act relative to the abolition of certain district courts.
3. An Act relative to the abolition of the office of trial justices except in certain towns.
4. An Act relative to the establishment, powers and duties of an administrative committee of the district courts.

And so in dissenting I find that I would be remiss in my duty if I did not make a statement relative to my reasons for dissenting. In my opinion, in dealing with the problem of the district court system, two things must be considered, — justice and economy. Justice is paramount; economy secondary but important. It is absolutely necessary that the people have confidence in the courts, where they must go to have their difficulties ironed out, and where they can feel that they have confidence in the ability and the honesty of the men who dispense the justice. In the past years many abuses arising out of the automobile law have come into existence. Many of the alleged abuses by justices and special justices come from the fact that they perform a dual rôle of judge and lawyer under our system; for example, it has been stated that it is improper for a man who is one day an adversary in litigation to sit next day to hear cases being tried by yesterday's opponent. It has been reported that concerning motor vehicle tort litigation insurance companies have been tempted to trade favors in settling cases with lawyers who one day as judges may hear other cases which those companies may defend.

It may be that all of these reports are false, founded on rumor, instigated by disgruntled lawyers and litigants against whom an impartial judge ruled adversely; yet in my opinion the system which allows as a basis the lack of confidence in the honesty and integrity of the judges who serve this system is bad inherently. During the past years hundreds of different answers have been given to this problem and each time has met ignominious failure because the framers of the legislation had not gone to the essence of the problem but had attempted only to scratch its surface.

So much of the report of the majority that deals with the abolition of some of our district courts has not in any way answered the question of renewing confidence in our system as a whole. These acts have been directed primarily for the purpose of economy, and do not in any way correct or improve the type of justice to be dispensed. The only attempt by the majority members to improve the type of justice and to correct the abuse of justices acting in a dual capacity as lawyer and judge has been to set up an administrative committee which will have certain powers of management over the district courts. This, in my opinion, will not be effective because of the inability of the administrative committee to restrain the justices or special justices from practicing law. In my opinion the only cure for the present ills of the district court system is a complete abolition of such system, and a new system installed wherein the justices and special justices shall be placed on full-time salary and absolutely prohibited from practicing law either directly or indirectly. The number of justices and special justices and others, like clerks, probation officers and such, will be affected by this method, and tremendous pressure will be exerted to save their positions, but if this district court system is to be saved drastic measures must be taken and legislators must face the problem with courage, knowing that certain sacrifices must be made in order to guarantee to the people the type of justice to which they are entitled.

JAMES L. VALLELY.

STATEMENT OF JEREMIAH J. SULLIVAN.

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I dissent to so much of the report of the Joint Special Committee of the Committee on Judiciary as relates to the abolition of any of the courts, particularly the district courts of Southern Berkshire and Southern Norfolk, because evidence showed in regard to the district court of Southern Norfolk for the first six months of this year the business of that court has greatly increased, and the chief reason for the abolition of this court has already been eliminated. In regard to the abolition of the district court of Southern Berkshire the evidence at the public hearing was overwhelmingly in favor of the retention of this court. There was very little evidence of any weight in favor of the abolition of this court.

I also dissent from that part of the majority report which deals with the pensions of probation officers and clerks, because it makes no provision for a pension for any one of these persons who has served less than ten years.

I am also opposed to the placing of administration of the district courts in an administrative committee, because it places too much power in this Committee over the district courts.

I dissent from so much of the Committee's report that eliminates the positions of any of the special justices and trial justices, because I feel that these positions form a very important part of our judicial system, and until the whole system can be changed I am opposed to changing it piecemeal.

I am in favor of placing the presiding justice on a full-time basis in those courts where the records show a full-time justice is needed. In my opinion his pay should be the same as a full-time justice of the Boston municipal court.

JEREMIAH J. SULLIVAN.



## APPENDIX.

## PROPOSED LEGISLATION.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Forty-One.

AN ACT RELATIVE TO THE ABOLITION OF CERTAIN DISTRICT COURTS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. The district court of southern Nor-  
2 folk, the district court of Winchendon and the district  
3 court of southern Berkshire are hereby abolished.

1 SECTION 2. Section one of chapter two hundred  
2 and eighteen of the General Laws, as amended, is  
3 hereby further amended by striking out the para-  
4 graph contained in the twenty-fourth to the twenty-  
5 eighth lines, inclusive, as appearing in the Tercente-  
6 nary Edition, and inserting in place thereof the fol-  
7 lowing:—

8 The district court of Lee, held at Lee and Great  
9 Barrington; Lee, Stockbridge, Tyringham, Otis,  
10 Sandisfield, Lenox, Becket, Sheffield, Great Bar-  
11 rington, Egremont, Alford, Mount Washington, Mon-

12 terey, New Marlborough and West Stockbridge; the  
13 district court of central Berkshire exercising con-  
14 current jurisdiction in Lenox and Becket.

1 SECTION 3. Said section one as amended is hereby  
2 further amended by striking out the paragraph con-  
3 tained in the one hundred and twenty-sixth to the  
4 one hundred and twenty-eighth lines, inclusive, as  
5 so appearing, and inserting in place thereof the fol-  
6 lowing:—

7 The district court of western Norfolk, held at  
8 Franklin, Stoughton and Walpole; Franklin, Wal-  
9 pole, Bellingham, Foxborough, Medway, Millis, Nor-  
10 folk, Wrentham, Plainville, Stoughton, Canton, Avon  
11 and Sharon.

1 SECTION 4. Said section one as amended is hereby  
2 further amended by striking out the paragraph con-  
3 tained in the one hundred and seventy-ninth to the  
4 one hundred and eighty-first lines, inclusive, as so  
5 appearing, and inserting in place thereof the follow-  
6 ing:—

7 The first district court of northern Worcester, held  
8 at Athol and Gardner; Athol, Gardner, Petersham,  
9 Phillipston, Royalston, Templeton, Hubbardston,  
10 Dana, Winchendon and Westminster.

1 SECTION 5. All matters and proceedings pending  
2 on the effective date of this act before any district  
3 court which is abolished by section one hereof shall  
4 be transferred to the district court to which the judi-  
5 cial district of such abolished court has been added  
6 by this act, and shall be disposed of in such enlarged  
7 court as if begun therein.

1 SECTION 6. The records of any court which is  
2 abolished under the operation of this act shall be in  
3 the custody of the clerk of the district court to which  
4 the judicial district of such abolished court has been  
5 added by this act, subject to any general laws or  
6 rules relative to the custody or disposition of such  
7 records.

1 SECTION 7. A clerk of any district court abolished  
2 under the provisions of section one of this act, who  
3 has served as clerk of said court for the period of at  
4 least ten consecutive years next preceding the ef-  
5 fective date of this act, shall annually receive a pen-  
6 sion equal to three quarters of the compensation re-  
7 ceived by him at the time of the effective date of this  
8 act; provided, however, that this section shall not  
9 operate to deprive any such clerk of the benefits of  
10 any pension system of which, under existing law, he  
11 may avail himself prior to the effective date of this  
12 act; but if he shall have elected to take the benefits  
13 of any such pension system he shall not have the  
14 benefits of this section.

1 SECTION 8. A probation officer of any district  
2 court abolished under the provisions of section one  
3 of this act, who has served as probation officer of  
4 said court for the period of at least ten consecutive  
5 years next preceding the effective date of this act,  
6 shall annually receive a pension equal to three quarters  
7 of the compensation received by him at the time of  
8 the effective date of this act; provided, however, that  
9 this section shall not operate to deprive any such  
10 clerk of the benefits of any pension system of which,  
11 under existing law, he may avail himself prior to the

12 effective date of this act; but if he shall have elected  
13 to take the benefits of any such pension system he  
14 shall not have the benefits of this section.

1 SECTION 9. This act shall take effect upon the  
2 expiration of the current calendar year.

## **The Commonwealth of Massachusetts**

**In the Year One Thousand Nine Hundred and Forty-One.**

AN ACT RELATIVE TO THE ABOLITION OF CERTAIN DISTRICT COURTS UPON THE OCCURRENCE OF A VACANCY IN THE OFFICE OF THE JUSTICE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. The fourth district court of Berkshire,  
2 the district court of Williamstown, the second district  
3 court of Essex, the third district court of Essex, the  
4 district court of Peabody, the district court of eastern  
5 Franklin, the district court of Chicopee, the district  
6 court of eastern Hampshire, the district court of  
7 Natick and the district court of Leominster shall each  
8 be abolished upon the occurrence of a vacancy in the  
9 office of justice of such court or courts by reason of  
10 the death, resignation, retirement or removal of the  
11 justice thereof.

1 SECTION 2. Upon the abolition of the fourth  
2 district court of Berkshire by operation of the pro-  
3 visions of section one of this act, section one of chap-  
4 ter two hundred and eighteen of the General Laws,  
5 as amended, shall be further amended by striking  
6 out the following words, commencing after the word  
7 "Becket" in lines thirteen and fourteen, as appear-  
8 ing in the Tercentenary Edition, "and the fourth

9 district court of Berkshire exercising concurrent juris-  
10 diction in Windsor”.

1 SECTION 3. Upon the abolition of the fourth dis-  
2 trict court of Berkshire in accordance with the pro-  
3 visions of section one of this act, section one of chap-  
4 ter two hundred and eighteen of the General Laws,  
5 as amended, shall be further amended by striking out  
6 the paragraph contained in the fifteenth and sixteenth  
7 lines, as appearing in the Tercentenary Edition, and  
8 inserting in place thereof the following:—

9 The district court of northern Berkshire, held at  
10 North Adams; North Adams, Clarksburg, Florida,  
11 Adams, Cheshire and Savoy.

1 SECTION 4. Upon the abolition of the district court  
2 of Williamstown in accordance with the provisions of  
3 section one of this act, whether such abolition occurs  
4 before or after the abolition of the fourth district  
5 court of Berkshire, section one of chapter two hun-  
6 dred and eighteen of the General Laws, as amended,  
7 shall be further amended by adding after the word  
8 “Florida” in the sixteenth line, as appearing in the  
9 Tercentenary Edition, the words:— Williamstown  
10 and New Ashford.

1 SECTION 5. Upon the abolition of the second dis-  
2 trict court of Essex in accordance with the provisions  
3 of section one of this act, section one of chapter two  
4 hundred and eighteen of the General Laws, as  
5 amended, shall be further amended by adding after  
6 the word “Boxford”, in the fifty-fifth line, as ap-  
7 pearing in the Tercentenary Edition, the word:—  
8 Merrimac, — and by striking out the paragraph con-  
9 tained in the sixty to sixty-fourth lines, inclusive, as

10 appearing in the Tercentenary Edition, and inserting  
11 in place thereof the following: —

12 The district court of Newburyport, held at New-  
13 buryport; Amesbury, Newburyport, Newbury, Row-  
14 ley, Salisbury and West Newbury; the central dis-  
15 trict court of northern Essex exercising concurrent  
16 jurisdiction in West Newbury.

1 SECTION 6. Upon the abolition of the third dis-  
2 trict court of Essex in accordance with the provisions  
3 of section one of this act, whether such abolition oc-  
4 curs before or after the abolition of the second dis-  
5 trict court of Essex, section one of chapter two hun-  
6 dred and eighteen of the General Laws, as amended,  
7 shall be further amended by adding after the words  
8 “held at Newburyport”, in the sixtieth line, as ap-  
9 pearing in the Tercentenary Edition, the words: —  
10 and Ipswich, — and by adding after the word “Row-  
11 ley”, in the sixty-first line, as appearing in the Ter-  
12 centenary Edition, the word: — Ipswich.

1 SECTION 7. Upon the abolition of the district court  
2 of Peabody in accordance with the provisions of sec-  
3 tion one of this act, section one of chapter two hun-  
4 dred and eighteen of the General Laws, as amended,  
5 shall be further amended by striking out the para-  
6 graph contained in the forty-fourth and forty-fifth  
7 lines, as appearing in the Tercentenary Edition, and  
8 inserting in place thereof the following: —

9 The first district court of Essex, held at Salem,  
10 Beverly, Danvers, Peabody, Lynnfield, Hamilton,  
11 Middleton, Topsfield, Wenham and Manchester.

1 SECTION 8. Upon the abolition of the district court  
2 of eastern Franklin in accordance with the provisions

3 of section one of this act, section one of chapter two  
4 hundred and eighteen of the General Laws, as most  
5 recently amended by chapter eighty-seven of the acts  
6 of nineteen hundred and thirty-two, shall be further  
7 amended by striking out the paragraph concerning  
8 the district court of Franklin and inserting in place  
9 thereof the following: —

10 The district court of Franklin, held at Greenfield,  
11 at Orange and at Turners Falls in Montague; Frank-  
12 lin County. Sessions may also be held at Shelburne  
13 Falls in Shelburne and Buckland at such times and  
14 places as the justice of said court may determine.

1 SECTION 9. Upon the abolition of the district court  
2 of Chicopee in accordance with the provisions of sec-  
3 tion one of this act, section one of chapter two hun-  
4 dred and eighteen of the General Laws, as amended,  
5 shall be further amended by adding the following  
6 words after the word "Holyoke", at the end of the  
7 sentence in the seventy-eighth line, as appearing in  
8 the Tercentenary Edition: — and Chicopee.

1 SECTION 10. Upon the abolition of the district  
2 court of eastern Hampshire in accordance with the  
3 provisions of section one of this act, section one of  
4 chapter two hundred and eighteen of the General  
5 Laws, as amended, shall be further amended by strik-  
6 ing out the following words commencing after the  
7 word "county" in the eighty-fourth line, as appear-  
8 ing in the Tercentenary Edition: — except Ware,  
9 Enfield, Greenwich and Prescott.

1 SECTION 11. Upon the abolition of the district  
2 court of Natick in accordance with the provisions  
3 of section one of this act, section one of chapter two



4 hundred and eighteen of the General Laws, as amended,  
5 shall be further amended by adding after the word  
6 "Holliston" in the one hundred and third line, as  
7 appearing in the Tercentenary Edition, the word: —  
8 Natick.

1 SECTION 12. Upon the abolition of the district  
2 court of Leominster in accordance with the provi-  
3 sions of section one of this act, section one of chapter  
4 two hundred and eighteen of the General Laws, as  
5 amended, shall be further amended by adding after  
6 the word "Ashburnham" in the two hundredth and  
7 two hundred and first lines, so appearing in the Ter-  
8 centenary Edition, the word: — Leominster.

1 SECTION 13. All matters and proceedings pending  
2 before any district court which shall be abolished  
3 under the provisions of section one of this act at the  
4 time of such abolition shall be transferred to the dis-  
5 trict court to which the judicial district of such  
6 abolished court has been added by this act, and shall  
7 be disposed of in such enlarged court as if begun  
8 therein. In the case of the second district court of  
9 Essex such matters and proceedings pending there  
10 at the time of abolition shall be transferred to and  
11 be disposed of by the district court of Newburyport.

1 SECTION 14. The records of any district court  
2 which shall be abolished under the provisions of sec-  
3 tion one of this act shall, upon such abolition, be in  
4 the custody of the clerk of the district court to which  
5 the judicial district of such abolished court has been  
6 added by this act, subject to any general laws or  
7 rules relative to the custody or disposition of such  
8 records. In the case of the second district court of

9 Essex such records shall be in the custody of the clerk  
10 of the district court of Newburyport.

1 SECTION 15. Upon the abolition of any district  
2 court under the provisions of section one of this act  
3 a clerk of such court who has served as clerk for the  
4 period of at least ten consecutive years next preceding  
5 the date of such abolition shall annually receive a  
6 pension equal to three quarters of the compensation  
7 received by him at the time of such abolition; pro-  
8 vided, however, that this section shall not operate to  
9 deprive any such clerk of the benefits of any pension  
10 system of which, under existing law, he may avail  
11 himself prior to the abolition of such court. But if  
12 he shall have elected to take the benefits of any such  
13 pension system he shall not have the benefits of this  
14 section.

1 SECTION 16. Upon the abolition of any district  
2 court under the provisions of section one of this act  
3 a probation officer of such court who has served as  
4 a probation officer for the period of at least ten con-  
5 secutive years next preceding the date of such aboli-  
6 tion shall annually receive a pension equal to three  
7 quarters of the compensation received by him at the  
8 time of such abolition; provided, however, that this  
9 section shall not operate to deprive any such clerk  
10 of the benefits of any pension system of which, under  
11 existing law, he may avail himself prior to the aboli-  
12 tion of any such court. But if he shall have elected  
13 to take the benefits of any such pension system he  
14 shall not have the benefits of this section.

1 SECTION 17. This act shall take effect upon its  
2 passage.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-One.

### AN ACT RELATIVE TO THE ABOLITION OF THE OFFICE OF TRIAL JUSTICES EXCEPT IN CERTAIN TOWNS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter two hundred and nineteen of  
2 the General Laws is hereby amended by inserting  
3 after section two, as appearing in the Tercentenary  
4 Edition, the following new section: —

5 Section 2A. Upon the death, resignation, expira-  
6 tion of term of office or removal of a trial justice no  
7 successor shall be appointed to such office, and said  
8 office shall be thereupon abolished; provided, how-  
9 ever, that this section shall not apply to the office of  
10 trial justice in the towns of Barre and Hardwick.

1 SECTION 2. Upon the abolition of the office of trial  
2 justice under the provisions of section one of this act  
3 all the papers in all the cases pending before any  
4 trial justice whose office has so been abolished and  
5 all his records shall be transferred and entered in the  
6 district court within whose judicial district such trial  
7 justice exercised jurisdiction, and said district court  
8 may thereupon proceed in said cases as if they had  
9 been originally begun therein.

1 SECTION 3. This act shall take effect upon its  
2 passage.

## **The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Forty-One.

### **AN ACT RELATIVE TO COMPENSATION OF SPECIAL JUSTICES OF DISTRICT COURTS.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section six of chapter two hundred  
2 and eighteen of the General Laws as amended is  
3 hereby further amended by striking out the second  
4 paragraph thereof as appearing in the Tercentenary  
5 Edition and inserting in place thereof the following: —  
6 Except in the municipal court of the city of Boston,  
7 special justices of district courts and of the Boston  
8 juvenile court shall be paid by the county for each  
9 day's service at the rate by the day of the salary of  
10 the justice of the same court, and additional compen-  
11 sation of five dollars per hour of actual service in  
12 preparation of findings of fact, rulings of law, and  
13 legal research in arriving at a decision, upon certifica-  
14 tion by the justice of a true and correct account of  
15 time actually and necessarily occupied thereon.  
16 Compensation so paid to any special justice for serv-  
17 ice in excess of thirty days in any one year except  
18 for services in holding simultaneous sessions and ex-  
19 cept in case of illness of the justice in whose place a  
20 special justice sits not exceeding thirty days in any  
21 one year, provided a certificate of a physician is

22 presented to the county treasurer, shall be deducted  
23 by the county treasurer from the salary of such  
24 justice.

1 SECTION 2. This act shall take effect on January  
2 first, nineteen hundred and forty-two.

## **The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Forty-One.

AN ACT RELATIVE TO THE ESTABLISHMENT, POWERS AND  
DUTIES OF AN ADMINISTRATIVE COMMITTEE OF THE DIS-  
TRICT COURTS.

*Be it enacted by the Senate and House of Repre-  
sentatives in General Court assembled, and by the  
authority of the same, as follows:*

1 SECTION 1. Chapter two hundred and eighteen of  
2 the General Laws is hereby amended by striking out  
3 section forty-three A, as amended by chapter three  
4 hundred and twenty-four of the acts of nineteen hun-  
5 dred and thirty-eight and inserting in place thereof  
6 the following: —

7 Section 43A. There shall be an administrative  
8 committee of the district courts which shall consist  
9 of five justices of the district courts, including the  
10 municipal court of the city of Boston, appointed by  
11 the chief justice of the supreme judicial court, each  
12 for a period not exceeding two years as said chief  
13 justice may determine. Any such justice may be  
14 reappointed. The committee shall be authorized to  
15 visit any district court, including the municipal court  
16 of the city of Boston, or any trial justice, as a com-  
17 mittee or by sub-committee, to require uniform prac-  
18 tices, forms of blanks and records, and to superintend  
19 the keeping of records by clerks and by trial justices.  
20 Such administrative committee shall have general  
21 superintendence but not appointive power, except as

22 otherwise provided by law, of all the district courts,  
23 including the municipal court of the city of Boston,  
24 and their clerks and other officers, and shall regulate  
25 the assignment of justices and special justices in any  
26 of the district courts, determine the number of simul-  
27 taneous sessions which may be held by any district  
28 court, the sittings of special justices, and, subject to the  
29 provisions of section fifteen of this chapter, shall  
30 determine the times for holding criminal and civil  
31 sessions. Without limiting the generality of the fore-  
32 going, the committee shall require records to be kept  
33 which shall be available to the general court and which  
34 shall show the hours of opening and adjourning of  
35 court and any simultaneous session thereof on each  
36 day, the names of the justices and special justices  
37 holding court or a simultaneous session thereof, and  
38 any other information which may generally assist  
39 in the determination of the nature and volume of and  
40 the time required to complete all work done by any  
41 of the district courts.

42 In the case of the refusal or failure of any justice or  
43 special justice, clerk or officer of any of the district  
44 courts, including the municipal court of the city of  
45 Boston, to comply with any order of the committee  
46 in performance of its duties and powers by this section  
47 established, the committee shall report such person  
48 or persons to the chief justice of the supreme judicial  
49 court with a statement of such non-compliance, and  
50 upon hearing by said chief justice or any justice of the  
51 supreme judicial court to whom said chief justice may  
52 refer the matter, and upon finding that such person  
53 has not complied with such order of the committee,  
54 the supreme judicial court shall forthwith make an  
55 appropriate order as to the matter involved.

56 The members of the committee shall be allowed the  
57 necessary expenses, including clerical expenses, in-  
58 curred in the performance of their duties, subject to  
59 the approval of the governor and council, and shall  
60 receive such compensation for their services actually  
61 performed in the work of such committee as the gov-  
62 ernor and council shall approve, to be paid from the  
63 treasury of the commonwealth.

64 To promote a co-ordination in the work of the courts,  
65 the administrative committee may call a conference of  
66 any or all of the justices of the district courts, includ-  
67 ing the municipal court of the city of Boston, or other  
68 officer connected with such courts, and the traveling  
69 expenses of such justices or officials for attending any  
70 such conferences shall be paid as the other expenses of  
71 the respective courts are paid.

1 SECTION 2. This section shall take effect upon its  
2 passage.



## **The Commonwealth of Massachusetts**

**In the Year One Thousand Nine Hundred and Forty-One.**

### **AN ACT LIMITING THE NUMBER OF SPECIAL JUSTICES.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter two hundred and eighteen of  
2 the General Laws is hereby further amended by in-  
3 serting after section six the following section:—  
4 Section 6A. Special justices holding office at the  
5 time of the effective date of this section may con-  
6 tinue to hold office, but notwithstanding the provi-  
7 sions of section six, if there is a vacancy in the office  
8 of special justice in any court except the municipal  
9 court of the city of Boston, whether such vacancy  
10 exists at the time of the passage of this act or there-  
11 after, no appointment shall be made to fill such va-  
12 cancy, provided there is one special justice in such  
13 court.

1 SECTION 2. This act shall take effect upon its  
2 passage.

## **The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Forty-One.

### **AN ACT RELATIVE TO THE RETIREMENT OR RESIGNATION OF SPECIAL JUSTICES IN DISTRICT COURTS.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. A special justice of a district court,  
2 including the municipal court of the city of Boston,  
3 whose actual service as such is equivalent to at least  
4 twenty-six hundred days, and who shall have at-  
5 tained the age of sixty-five years, and who shall resign  
6 his office, shall be entitled to receive a pension for  
7 life at an annual rate equal to three quarters of his  
8 average yearly earnings as such special justice during  
9 the period of ten years next preceding such resigna-  
10 tion, to be paid from the same source and in the  
11 same manner as the salary of the justice of his court  
12 is paid; provided, however, such pension shall not be  
13 greater in amount than three quarters of the salary  
14 of the justice of his court.

1 SECTION 2. This act shall take effect upon its  
2 passage.

